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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

UNITE THE PARKS; SEQUOIA  
FORESTKEEPER; and EARTH ISLAND  
INSTITUTE,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, an  
agency of the U.S. Department of Agriculture;  
and UNITED STATES FISH AND  
WILDLIFE SERVICE, an agency of the U.S.  
Department of the Interior,

Defendants.

Case No. 1:21-CV-00518-DAD-HBK

**PLAINTIFFS' UNOPPOSED MOTION TO  
STAY CASE PENDING RESOLUTION  
OF PLAINTIFFS' APPEAL OF  
PRELIMINARY INJUNCTION ORDER;  
[PROPOSED] ORDER**

**UNOPPOSED MOTION**

On May 28, 2021, this Court issued an order denying Plaintiffs' motion for preliminary injunction, concluding that Plaintiffs are not likely to succeed on the merits of either their Endangered Species Act ("ESA") or National Environmental Policy Act ("NEPA") claims. *See* ECF Doc No. 26. On June 29, 2021, Defendants filed a motion to dismiss Plaintiffs' NEPA claim in this Court and set that motion for hearing on August 17, 2021. *See* ECF Doc. No. 29. On July 23, 2021, Plaintiffs filed an appeal of the Court's order denying the motion for preliminary injunction, pursuant to 28 U.S.C. § 1292(a)(1). *See* ECF Doc. No. 32. Consistent with Ninth Circuit Rule 3-3, the Court of Appeal issued an order on July 28, 2021 directing that Plaintiffs' opening brief on appeal is due no later than August 20, 2021 and Defendants' answering brief is due no later than September 17, 2021. *See* Ninth Circuit ECF Doc. No. 2.

In light of the pending appeal, Plaintiffs believe a stay of all existing deadlines in this case, including those related to Defendants' motion to dismiss, is warranted to promote efficiency for the Court and the litigants. *See, e.g., Assoc. of Irrigated Residents v. Fred Schakel Dairy*, 634 F. Supp.2d 1081, 1094 (E.D. Cal. 2008); *Morgan Stanley & Co. v. Couch*, Case No. 15-CV-1219-LJO-JLT, 2015 WL 7271717 (E.D. Cal. Nov. 15, 2015). "The power to stay is 'incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel and for litigants.'" *Peck v. County of Orange*, Case No. CV-19-4654-DSF (AFMx), 2021 WL 1186337 (C.D. Cal. Mar. 26, 2021). Defendants have indicated that they do not oppose this motion.

Accordingly, Plaintiffs request that the Court grant Plaintiffs' unopposed motion and enter the Proposed Order set forth below.

Dated: August 3, 2021

Respectfully submitted,

ENVIRONMENTAL LAW CLINIC  
Mills Legal Clinic at Stanford Law School

By: /s/Deborah Sivas  
Deborah A. Sivas

Attorneys for UNITE THE PARKS

NATURAL RESOURCES LAW

By: /s/ René P. Voss

René P. Voss

Attorney for SEQUOIA FORESTKEEPER and  
EARTH ISLAND INSTITUTE

**[PROPOSED] ORDER**

Good cause appearing therefor, the Court HEREBY ORDERS a stay of all proceeding in this case pending a decision from the Ninth Circuit Court of Appeals regarding Plaintiffs' appeal of the Court's order denying Plaintiffs' motion for preliminary injunction.

Consistent with this order, the Court VACATES the August 17, 2021 hearing date for Defendants' motion to dismiss and all briefing dates associated with that motion and VACATES the mandatory scheduling conference set for October 14, 2021.

The Court FURTHER ORDERS that the parties shall meet and confer and submit a joint scheduling report to the Court within 14 days after a decision by the Court of Appeals in Plaintiffs' pending appeal.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE